IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 14310 of 2004

Between:

Mogali Naguraiah S/o. Naganna Dora
r/o Gollaprolu Village & Mandal, East Godavari District.

..... PETITIONER

AND

1 The Superintendent of Police, East Godavari District,

Kakinada.
2 The Circle Inspector, Pithapuram Circle, Pithapuram, East

Godavari District.
3 The Station House Officer, Gollaprolu P.S., Gollaprolu, East

Godavari District.
4 Mogali Papa Rao S/o. Naganna Dora,
r/o Railway Station Road, Gollaprolu Village and Mandal,
East Godavari District.
5 Mogali Veera Venkata Satyanarayana S/o. Papa Rao,
r/o Railway Station Road, Gollaprolu Village and Mandal,
East Godavari District.
6 Mogali Naganna Dora @ Dora Babu S/o. Papa Rao
r/o Railway Station Road, Gollaprolu Village and Mandal,
East Godavari District.

.....respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order, writ or direction more particularly in the nature of Writ of Mandamus

declaring the inaction of the respondents 1 to 3 in not taking any action and registering any case against the respondents 4 to 6 in pursuance of complaint Dt. 30.6.2004 made by the petitioner is as illegal, arbitrary and violation of Article 14 and 21 of the Constitution of India and against the principles of natural justice, and consequently direct the respondents 1 to 3 police authorities to register a case against the respondents 4 to 6 forthwith in pursuance of complaint Dt. 30.6.2004 made by the petitioner.

Counsel for the Petitioner: MR.S.LAKSHMINARAYANA REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR HOME

Counsel for the Respondent Nos.4 to 6: - - -

The Court at the stage of admission made the following :

ORDER:

The petitioner seeks a writ of mandamus declaring the inaction of respondents 1 to 3 in registering any case against respondents 4 to 6 in pursuance of complaint dated 30-6-2004 as arbitrary and illegal.

As can be seen from the material on record, it appears that the petitioner and respondents 4 to 6 are closely related. The petitioner lodged a complaint with the 3rd respondent on 30-6-2004 alleging that respondents 4 to 6 have entered into the lands of the petitioner and interfered with the agricultural operations, threatening the people working there with dire consequences. The petitioner also states that he filed O.S.No.138 of 2004 seeking permanent injunction restraining respondents 4 to 6 and a temporary injunction has been granted in his favour, however the Respondents 4 to 6 have been high-handedly interfering with his possession.

The grievance of the petitioner is that respondents 1 to 3 failed to take any action on the basis of his complaint dated 30-6-2004. Hence this writ petition.

On behalf of respondents 1 to 3, the Sub-Inspector of Police, Gollaprolu Police Station, East Godavari District filed counter-affidavit stating that in pursuance of the complaint dated 30-6-2004, an entry has been made in the General Diary and necessary enquiries have been made by the then Sub-Inspector of Police. However, it was found that the allegations are false and the matter, being civil in nature and pending before the competent civil Court, the petitioner was advised to seek redressal of the grievance from the competent civil Court and the matter was closed by the then Sub-Inspector of Police. The other allegations that respondents 1 to 3 have colluded with respondents 4 to 6 has been specifically denied.

The petitioner filed a reply affidavit stating that the stand taken by respondents 1 to 3 is incorrect. He also states that subsequently the respondents have trespassed into his house and beat him and his family members and consequently he was constrained to lodge another complaint dated 18-9-2004, on the basis of which the Sub-Inspector of Police i.e., the 3rd respondent, registered crime No.80 of 2004 under Sections 448, 323 & 506 of IPC and the investigation is pending.

This Court cannot investigate into the disputed question of fact and no finding can be recorded as to the alleged interference by the respondents 4 to 6. Moreover, in view of the specific stand taken by the 3rd respondent in his counter–affidavit that they made necessary enquiries and the alleged incident on 30-6-2004 was found to be false and particularly in view of the fact that on the basis of the complaint made by the petitioner dated 18-9-2004, a crime has already been registered and

investigation is pending, no adjudication deserves to be made on merits except directing the respondents 1 to 3 to complete the investigation expeditiously following due process of law.

Accordingly, the Writ Petition is closed. No costs.

25-10-2004

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To

1 The Superintendent of Police, East Godavari District,

Kakinada.
2 The Circle Inspector, Pithapuram Circle, Pithapuram, East

Godavari District.
3 The Station House Officer, Gollaprolu P.S., Gollaprolu, East

Godavari District.
4 Two CCS to GP for Home, High Court buildings, Hyderabad (OUT)

5 Two CD copies.